

E-Filed 9/20/2010

[SEE SIGNATURE PAGE FOR PARTIES AND COUNSEL OF RECORD]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ACER, INC., ACER AMERICA
CORPORATION and GATEWAY, INC.,

Plaintiffs,

v.

TECHNOLOGY PROPERTIES
LIMITED, PATRIOT SCIENTIFIC
CORPORATION, and ALLIACENSE
LIMITED,

Defendants.

Case No. 5:08-cv-00877 JR/HRL

**STIPULATION AND ~~[PROPOSED]~~
ORDER CONTINUING CASE
SCHEDULING DATES**

[RELATED CASES]

HTC CORPORATION, HTC AMERICA,
INC.,

Plaintiffs,

v.

TECHNOLOGY PROPERTIES
LIMITED, PATRIOT SCIENTIFIC
CORPORATION, and ALLIACENSE
LIMITED,

Defendants.

Case No. 5:08-cv-00882 JF/HRL

BARCO N.V., a Belgian corporation,
Plaintiff,

v.

TECHNOLOGY PROPERTIES LTD.,
PATRIOT SCIENTIFIC CORP.,
ALLIACENSE LTD.,
Defendants.

Case No. 5:08-cv-05398 JF/HRL

The parties in these three related cases, Acer, Inc., Acer America, Inc. and Gateway, Inc. (collectively "Acer"), Barco, N.V. ("Barco"), HTC Corp. and HTC America, Inc. (collectively "HTC") (Acer, Barco and HTC collectively "Plaintiffs"); and Technology Properties Ltd., Patriot Scientific Corp. and Alliacense, Ltd. (collectively "TPL" or "Defendants"), pursuant to Northern District of California Civil Local Rule 6-2, make this stipulated request for an order to continue case scheduling dates with reference to the following facts:

WHEREAS, on February 22, 2010 this Court entered an Order Following Case Management Conference establishing a schedule for these actions ("Scheduling Order") (Dkt. 156 in no. 08-cv-0877; Dkt. 148 in no. 08-cv-0882; Dkt. 76 in no. 08-cv-5398);

WHEREAS, on May 19, 2010 this Court entered an amended scheduling order for this action ("Amended Scheduling Order") (*see, e.g.*, Dkt. 162 in case no. 08-cv-0877);

WHEREAS, on or about September 2, 2010, counsel for Defendants left voicemails with counsel for Acer and HTC, requesting a continuance of thirty (30) days for filing the joint claim construction and pre-hearing statement, currently due September 21, 2010, in order to fully meet and confer as to the many proposed claim terms to be construed;

WHEREAS, on or about September 10, 2010, counsel for Plaintiffs informed counsel for Defendants that Plaintiffs would be amenable to continuing only the due date for the joint claim construction and pre-hearing statement to October 19, 2010 without moving other dates;

WHEREAS, in response, Defendants indicated that continuing only the due date for the joint statement would eliminate the time period allowed under the local rules for Defendants to prepare their opening brief and as such, their proposal was to continue the entire remaining

schedule by thirty (30) days;

WHEREAS, no dates have been set for the tutorial, claim construction hearing, or trial;

WHEREAS, the parties then agreed on or about September 13, 2010 that the Scheduling Order be modified as follows;

ACCORDINGLY, it is **HEREBY STIPULATED** by and among the parties and their counsel of record that the dates in the Amended Scheduling Order be modified as follows (under the "Proposed" column):

Event	Date	
	Current	Proposed
Last day to file joint claim construction and pre-hearing statement	September 21, 2010	October 21, 2010
Claim construction discovery cut-off	October 19, 2010	November 19, 2010
Defendants' opening claim construction brief	November 2, 2010	December 2, 2010
Plaintiffs' responsive claim construction brief	November 30, 2010	January 14, 2011
Defendants' reply claim construction brief	December 14, 2010	February 4, 2011
Patent Technology Tutorial*	*If requested by the Court Approximately 20 days after reply claim construction brief	
Claim construction hearing	To be determined	
Status conference	Three weeks after the claim construction hearing	
Final infringement contentions ¹	30 days after the claim construction ruling	

¹ & ² These two deadlines for final infringement and final invalidity contentions only apply to case nos. 5:08-cv-0877 (*Acer v. TPL*) and 5:08-cv-0882 (*HTC v. TPL*). Case no. 5:08-cv-05398 (*Barco v. TPL*) was filed in December 2008 and operates under the Patent Local Rules that were in effect after March 2008, which do not provide for final infringement or invalidity contentions absent leave from Court.

Event	Date	
	Current	Proposed
Final invalidity contentions ²	50 days after the claim construction ruling	
Defendants to serve willfulness documents; opinion of counsel	50 days after the claim construction ruling	
Close of fact discovery	Six months after the final invalidity contentions	
Initial expert reports	30 days after the close of fact discovery	
Rebuttal expert reports	30 days after the initial expert reports	
Close of expert discovery	Two weeks after the rebuttal expert reports	
Trial	To be determined	

Dated: September 15, 2010

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1 Dated: September 15, 2010

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5 Attorneys for Defendant
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7 Dated: September 15, 2010

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10 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

11 Dated: September 20, 2010

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15 THE HONORABLE JEFFREY FOGEL
16 UNITED STATES DISTRICT JUDGE
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ATTESTATION PER GENERAL ORDER 45

I, Eugene Mar, am the ECF User whose ID and password are being used to file this Stipulation. In compliance with General Order 45, X.B., I hereby attest that the counsel listed above have concurred with this filing.

Dated: September 15, 2010

FARELLA BRAUN + MARTEL LLP

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